

_____, 2019

IMPORTANT NOTICE TO POTENTIAL CLASS MEMBERS

AUTHORIZED BY JUDGE DONALD C. NUGENT OF THE U.S. DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO EASTERN DIVISION

TO: All current and former LPNs, home health aides, and CNAs employed by Altimate Care, LLC at any time between April 4, 2016 and the present.

RE: Your right to join a collective action seeking to recover unpaid overtime compensation.

1. PURPOSE OF THIS NOTICE

This Notice informs you of a collective action that has been filed under the Fair Labor Standards Act (“FLSA”), advises you of your rights as a class member, and tells you how you can be included in the action. If you wish to be included in this collective action, you must sign and return the enclosed Consent Form as explained below.

2. DESCRIPTION OF THE ACTION

On April 4, 2019, this collective action was filed against Altimate Care, LLC (“Altimate Care”) in the U.S. District Court for the Northern District of Ohio, Case No. 1:19-cv-00751. The action was filed on behalf of named Plaintiff Marcia Bell and all other similarly-situated individuals.

Plaintiff Marcia Bell was employed by Altimate Care as a non-exempt licensed practical nurse (“LPN”). Plaintiff alleges that Altimate Care violated the FLSA by failing to pay non-exempt LPNs, home health aides, and CNAs, including Plaintiff, overtime compensation at the rate of one and one-half times their regular rates of pay for the hours they worked over 40 each workweek. Additionally, Plaintiff alleges that Altimate Care paid LPNs, home health aides, and CNAs only for the work performed during client appointments and did not pay them for work performed between client appointments, such as driving to and from client homes.

Plaintiff alleges that she and all other similarly-situated individuals are entitled to recover from Altimate Care: (a) unpaid overtime compensation; (b) liquidated damages; (c) attorneys’ fees; and (d) costs under the FLSA. Altimate Care has denied these claims and believes it has properly paid employees.

The Court has not yet decided whether Plaintiff or Altimate Care is correct. The right to recover these wages for any Plaintiff has not been established and is not guaranteed or certain.

3. YOUR RIGHT TO PARTICIPATE IN THIS ACTION

Plaintiff seeks to sue not only for herself, but also for other persons with whom she is similarly situated. Plaintiff alleges that those individuals are current and former LPNs, home health aides, and CNAs employed by Altimate Care at any time between April 4, 2016 and the present, who were not paid overtime compensation at the rate of one and one-half times their regular rates of pay for the hours they worked over 40 each workweek. If you meet this definition, you have a right to participate in this litigation.

4. HOW TO PARTICIPATE IN THIS ACTION

To join this collective action, you must sign and return the enclosed “Consent Form.” You can return the Consent Form by: (a) signing it electronically (eSigning) via PDF; (b) mailing it to Plaintiff’s counsel in the self-addressed and postage-prepaid envelope included with this Notice; (c) faxing the form to Plaintiff’s counsel at 216-696-7005; (d) scanning the form and emailing it to Plaintiff’s counsel at consent@lazarolawfirm.com.

The signed Consent Form must be eSigned, postmarked, faxed, or emailed by _____, 2019. It is important that you return the Consent Form as soon as possible because the time period for which you can seek payment for your unpaid wages will depend on when this form is filed with the Court. If you lose or misplace the enclosed Consent Form, or if you have any questions about filling out or returning the Consent Form, you may contact Plaintiff’s counsel listed in paragraph 8 of this Notice.

5. NO RETALIATION PERMITTED

The law prohibits Altimate Care or any of its agents or employees to discharge you, or in any manner harass, discriminate or retaliate against you for taking part in this collective action.

6. EFFECT OF JOINING THIS ACTION

If you join this collective action, you will be bound by any judgment that is rendered, whether favorable or unfavorable, and share in any recovery. You will also be bound by, and share in, any settlement that may be reached on behalf of the class.

By joining this action, you designate the named Representative Plaintiff as your agent to make decisions on your behalf concerning the litigation, the method and manner of conducting this litigation, the entering of an agreement with Plaintiff's counsel concerning fees and costs, the entering into a settlement agreement with Altimate Care, and all other matters pertaining to this action.

The named Plaintiff in this matter has entered into a contingency fee agreement with Plaintiff's counsel, which means that if there is no recovery, there will be no attorneys' fees or costs chargeable to you. If there is a recovery of wages, liquidated damages, and/or attorneys' fees and costs, Plaintiff's counsel will be paid whatever attorneys' fees and costs the Court orders or approves as fair and reasonable. The fees and costs will either be subtracted from the total recovery obtained from Altimate Care in the amount of thirty-three and one-third percent (33-1/3%) of your total recovery, plus costs expended by Plaintiff's counsel on your behalf, or they may be paid separately by Altimate Care. If there is no recovery, Plaintiff's counsel will not be paid for their work on this case.

7. NO LEGAL EFFECT OF NOT JOINING THIS ACTION

If you choose not to join this action, you will not be bound by any judgment or settlement, whether favorable or unfavorable, and you will not share in any recovery. You will be free to file your own lawsuit; however, the pendency of this action will not stop the running of the statute of limitations as to any claims you may have until you file your own lawsuit.

8. YOUR LEGAL REPRESENTATION IF YOU JOIN

Anthony J. Lazzaro
Chastity L. Christy
Lori M. Griffin
The Lazzaro Law Firm, LLC
920 Rockefeller Building
614 W. Superior Avenue
Cleveland, Ohio 44113
Phone: 216-696-5000
Facsimile: 216-696-7005
anthony@lazzarolawfirm.com
lori@lazzarolawfirm.com

9. ALTIMATE CARE, LLC IS REPRESENTED BY

Steven J. Shrock
Kimberly L. Hall
Eric T. Michener
Critchfield, Critchfield & Johnston, Ltd.
225 North Market Street; P.O. Box 599
Wooster, Ohio 44691
Phone: 330-264-4444
Facsimile: 330-263-9278
shrock@ccj.com
khall@ccj.com

10. FURTHER INFORMATION

Further information about this Notice or the action may be obtained from Plaintiff's counsel at 216-696-5000. The call is free and confidential.

PLEASE DO NOT CONTACT THE COURT REGARDING THIS NOTICE. THE COURT HAS TAKEN NO POSITION IN THIS CASE REGARDING THE MERITS OF PLAINTIFF'S CLAIMS OR OF ALTIMATE CARE'S DEFENSES.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

MARCIA BELL, on behalf of herself and all)	CASE NO. 1:19-cv-00751
others similarly situated,)	
)	JUDGE DONALD C. NUGENT
Plaintiff,)	
)	MAGISTRATE JUDGE THOMAS M. PARKER
vs.)	
)	
ALTIMATE CARE, LLC)	
)	
Defendant.)	
)	
)	
)	

CONSENT FORM

I hereby consent, agree, and opt-in to be a party Plaintiff in the above-captioned collective action. I agree to be represented by The Lazzaro Law Firm, LLC. I understand that by filing this consent, I will be bound by the judgment of the Court on all issues in this case.

Signature: _____ Date: _____

Print Name: _____ Phone: _____

Street Address: _____ Email: _____

City, State, Zip: _____

eSign via PDF or return to:

Lazzaro Claims Administration, LLC / 920 Rockefeller Building / 614 W. Superior Avenue / Cleveland, Ohio 44113

Fax: 216-696-7005

Email: consent@lazzarolawfirm.com

Must be eSigned, postmarked, faxed, or emailed by _____, 2019